

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 783
97TH GENERAL ASSEMBLY

2010H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 177.011 and 177.088, RSMo, and to enact in lieu thereof two new sections relating to school facilities and equipment.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 177.011 and 177.088, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 177.011 and 177.088, to read as follows:

177.011. 1. The title of all schoolhouse sites and other school property is vested in the
2 district in which the property is located, or if the directors of both school districts involved agree,
3 a school district may own property outside of the boundaries of the district and operate upon such
4 property for school purposes; provided that, such property may only be used for school purposes
5 for students residing in the school district owning such property or students who are enrolled in
6 such school district as part of a court-ordered desegregation plan. All property leased or rented
7 for school purposes shall be wholly under the control of the school board during such time.
8 **With the exception of lease agreements entered into under the provisions of section**
9 **177.088,** no board shall lease or rent any building for school purposes while the district
10 schoolhouse is unoccupied, and no schoolhouse or school site shall be abandoned or sold until
11 another site and house are provided for the school district.

12 2. Notwithstanding the provisions of section 178.770, the provisions of this section shall
13 not apply to community college districts. Nothing in this subsection shall be construed to impair
14 the duty and authority of the coordinating board for higher education to approve academic
15 programs under section 173.005.

177.088. 1. As used in this section, the following terms shall mean:

2 (1) "Board", the board of education, board of trustees, board of regents, or board of
3 governors of an educational institution;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4 (2) "Educational institution", any school district, including all community college
5 districts, and any state college or university organized under chapter 174.

6 2. The board of any educational institution may enter into agreements as authorized in
7 this section [with a not-for-profit corporation formed under the general not-for-profit corporation
8 law of Missouri, chapter 355,] in order to provide for the acquisition, construction, improvement,
9 extension, repair, remodeling, renovation and financing of sites, buildings, facilities, furnishings
10 and equipment for the use of the educational institution for educational purposes.

11 3. The board may on such terms as it shall approve:

12 (1) Lease [from the corporation] sites, buildings, facilities, furnishings and equipment
13 [which the corporation has] acquired or constructed; or

14 (2) Notwithstanding the provisions of this chapter or any other provision of law to the
15 contrary, sell or lease at fair market value, which may be determined by appraisal, [to the
16 corporation] any existing sites [owned by the educational institution], together with any existing
17 buildings and facilities thereon, in order [for the corporation] to acquire, construct, improve,
18 extend, repair, remodel, renovate, furnish and equip buildings and facilities thereon, and [then]
19 lease back or purchase such sites, buildings and facilities [from the corporation]; provided that,
20 upon selling or leasing the sites, buildings or facilities, [the corporation agrees to enter into a
21 lease for] **any lease back to the educational institution is** not more than one year [but] **in**
22 **length, and** with not more than twenty-five successive options by the educational institution to
23 renew the lease under the same conditions; and provided further that [the corporation agrees]
24 **there is an agreement** to convey or sell the sites, buildings or facilities, including any
25 improvements, extensions, renovations, furnishings or equipment, back to the educational
26 institution with clear title at the end of the period of successive one-year options or at any time
27 bonds, notes or other obligations issued [by the corporation] to pay for the improvements,
28 extensions, renovations, furnishings or equipment have been paid and discharged.

29 4. Any consideration, promissory note or deed of trust which an educational institution
30 receives for selling or leasing property [to a not-for-profit corporation] pursuant to this section
31 shall be placed in a separate fund or in escrow, and neither the principal or any interest thereon
32 shall be commingled with any other funds of the educational institutions. At such time as the
33 title or deed for property acquired, constructed, improved, extended, repaired, remodeled or
34 renovated under this section is conveyed to the educational institution, the consideration shall
35 be returned [to the corporation].

36 5. The board may make rental payments [to the corporation] under such leases out of its
37 general funds or out of any other available funds, provided that in no event shall the educational
38 institution become indebted in an amount exceeding in any year the income and revenue of the
39 educational institution for such year plus any unencumbered balances from previous years.

40 6. Any bonds, notes and other obligations issued [by a corporation] to pay for the
41 acquisition, construction, improvements, extensions, repairs, remodeling or renovations of sites,
42 buildings and facilities, pursuant to this section, may be secured by a mortgage, pledge or deed
43 of trust of the sites, buildings and facilities and a pledge of the revenues received from the rental
44 thereof to the educational institution. Such bonds, notes and other obligations issued [by a
45 corporation] shall not be a debt of the educational institution and the educational institution shall
46 not be liable thereon, and in no event shall such bonds, notes or other obligations be payable out
47 of any funds or properties other than those acquired for the purposes of this section, and such
48 bonds, notes and obligations shall not constitute an indebtedness of the educational institution
49 within the meaning of any constitutional or statutory debt limitation or restriction.

50 7. The interest on such bonds, notes and other obligations [of the corporation] and the
51 income therefrom shall be exempt from taxation by the state and its political subdivisions, except
52 for death and gift taxes on transfers. Sites, buildings, facilities, furnishings and equipment
53 owned [by a corporation] in connection with any project pursuant to this section shall be exempt
54 from taxation.

55 8. The board may make all other contracts or agreements [with the corporation]
56 necessary or convenient in connection with any project pursuant to this section. [The corporation
57 shall comply with sections 290.210 to 290.340.]

58 9. Notice that the board is considering a project pursuant to this section shall be given
59 by publication in a newspaper published within the county in which all or a part of the
60 educational institution is located which has general circulation within the area of the educational
61 institution, once a week for two consecutive weeks, the last publication to be at least seven days
62 prior to the date of the meeting of the board at which such project will be considered and acted
63 upon.

64 10. [Provisions of other law to the contrary notwithstanding, the board may refinance any
65 lease purchase agreement that satisfies at least one of the conditions specified in subsection 6 of
66 section 165.011 for the purpose of payment on any lease with the corporation under this section
67 for sites, buildings, facilities, furnishings or equipment which the corporation has acquired or
68 constructed, but such refinance shall not extend the date of maturity of any obligation, and the
69 refinancing obligation shall not exceed the amount necessary to pay or provide for the payment
70 of the principal of the outstanding obligations to be refinanced, together with the interest accrued
71 thereon to the date of maturity or redemption of such obligations and any premium which may
72 be due under the terms of such obligations and any amounts necessary for the payments of costs
73 and expenses related to issuing such refunding obligations and to fund a capital projects reserve
74 fund for the obligations.

75 11.] Provisions of other law to the contrary notwithstanding, payments made from any
76 source by a school district, after the latter of July 1, 1994, or July 12, 1994, that result in the
77 transfer of the title of real property to the school district, other than those payments made from
78 the capital projects fund, shall be deducted as an adjustment to the funds payable to the district
79 pursuant to section 163.031 beginning in the year following the transfer of title to the district,
80 as determined by the department of elementary and secondary education. No district with
81 modular buildings leased in fiscal year 2004, with the lease payments made from the incidental
82 fund and that initiates the transfer of title to the district after fiscal year 2007, shall have any
83 adjustment to the funds payable to the district under section 163.031 as a result of the transfer
84 of title.

85 [12.] **11.** Notwithstanding provisions of this section to the contrary, the board of
86 education of any school district may enter into agreements with the county in which the school
87 district is located, or with a city, town, or village wholly or partially located within the
88 boundaries of the school district, in order to provide for the acquisition, construction,
89 improvement, extension, repair, remodeling, renovation, and financing of sites, buildings,
90 facilities, furnishings, and equipment for the use of the school district for educational purposes.
91 Such an agreement may provide for the present or future acquisition of an ownership interest in
92 such facilities by the school district, by lease, lease-purchase agreement, option to purchase
93 agreement, or similar provisions, and may provide for a joint venture between the school district
94 and other entity or entities that are parties to such an agreement providing for the sharing of the
95 costs of acquisition, construction, repair, maintenance, and operation of such facilities. The
96 school district may wholly own such facilities, or may acquire a partial ownership interest along
97 with the county, city, town, or village with which the agreement was executed.

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